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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,548	07/27/2001	Charles N. Harper	Serie 5684	8550
40582	7590	03/30/2009		
AIR LIQUIDE Intellectual Property 2700 POST OAK BOULEVARD, SUITE 1800 HOUSTON, TX 77056			EXAMINER	
			OYEBISI, OJO O	
			ART UNIT	PAPER NUMBER
			3696	
			MAIL DATE	DELIVERY MODE
			03/30/2009 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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3  
4 BEFORE THE BOARD OF PATENT APPEALS  
5 AND INTERFERENCES  
6

7  
8 *Ex parte* CHARLES N. HARPER  
9

10  
11 Appeal 2009-0549  
12 Application 09/916,548  
13 Technology Center 3600  
14

15  
16 Decided:<sup>1</sup> March 30, 2009  
17  
18

19 *Before* MURRIEL E. CRAWFORD, HUBERT C. LORIN, and DAVID B.  
20 WALKER, *Administrative Patent Judges*.

21  
22 CRAWFORD, *Administrative Patent Judge*.  
23

24  
25 DECISION ON APPEAL  
26

27 STATEMENT OF THE CASE

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

Appellant appeals under 35 U.S.C. § 134 (2002) from a final rejection of claims 21 to 42. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Appellant invented a system and method for supporting decisions related to electricity production by power generation facilities that also sustain industrial production (Specification 1).

Claim 21 under appeal reads as follows:

21. A computer-implemented method for identifying an excess energy capacity in a production supply chain operated by a supply chain operator, comprising:  
identifying, by a supply chain optimizer, a potential production configuration for the production supply chain, wherein:  
(i) the supply chain operator also operates at least one power generation facility to sustain industrial production by the production supply chain,  
(ii) the supply chain operator is capable of both consuming and selling electricity produced by the power generation facility while operating the production supply chain,  
(iii) the potential production configuration is related to a target electricity production by the power generation facility, and  
(iv) the potential production configuration reduces a production output and energy consumption for at least some portion of the production supply chain or increases electricity production by the power generation facility during a given time period;  
determining, using a potential action valuation model, whether to reduce the production output of the production supply chain or increase electricity production by the power generation

1 facility according to the potential production  
2 configuration to create the excess energy capacity  
3 during the time period; and  
4 if production output is determined to be  
5 reduced or electricity production by the power  
6 generation facility is determined to be increased,  
7 selling the excess energy capacity created by  
8 implementing the potential production  
9 configuration during the time period for the  
10 production supply chain and the power generation  
11 facility.  
12

13 The Examiner rejected claims 21 to 42 under 35 U.S.C. § 102(b) as  
14 being anticipated by Takriti.

15 The prior art relied upon by the Examiner in rejecting the claims on  
16 appeal is:

17 Takriti US 6,021,402 Feb. 1, 2000  
18

19 ISSUE

20 Has Appellant shown that the Examiner erred in finding that Takriti  
21 discloses a method which includes a supply chain operator that operates at  
22 least one power generation facility to sustain industrial production by the  
23 supply chain and the step of determining whether to reduce supply chain  
24 production or increase electricity production in order to create excess  
25 energy?  
26

27 FINDINGS OF FACT

28 Appellant discloses that changes in regulations have altered the value  
29 of industrial power generation facilities which have been used in production

1 support for operations that require large amounts of electrical power such as  
2 oil field electric pump networks, refineries, and iron production facilities  
3 (Specification 1). These changes in regulations make it possible for  
4 companies that have electrical generation capacity to sell the excess energy  
5 not needed for production. There is a need according to the Appellant for a  
6 decision support system and method for handling the problems arising from  
7 changing the strategic importance of electrical generation facilities from  
8 solely production support to potential profit centers with additional electrical  
9 customers (Specification 2). In Appellant's claimed invention a supply  
10 chain operator operates at least one power generation facility to sustain  
11 industrial production by the production supply chain. A determination is  
12 made whether to reduce production output of the production supply chain or  
13 increase electricity production to create excess energy capacity.

14 Takriti discloses a method for managing generating units 12 of an  
15 electric utility which handles multiple fuel, fuel constraints, varying fuel  
16 prices, power trading, and load uncertainty (col. 4, ll. 54 to 57). The system  
17 allows the user to model accurately the uncertain trading transactions and the  
18 changing fuel prices given many factors such as electric-load forecasts and  
19 fuel prices, reserve requirements for the system, and estimate of the price of  
20 electricity in the open market (col. 4, l. 64 to col. 5, l. 3). Takriti does not  
21 disclose a supply chain operator that operates at least one power generation  
22 facility to sustain industrial production by a production supply chain.

1 PRINCIPLES OF LAW

2 A claim is anticipated only if each and every element as set forth in  
3 the claim is found, either expressly or inherently described, in a single prior  
4 art reference. *Verdegaal Bros. Inc. v. Union Oil Co.*, 814 F.2d 628, 631  
5 (Fed. Cir.), *cert. denied*, 484 U.S. 827 (1987).

6  
7 ANALYSIS

8 We will not sustain the Examiner's rejection under 35 U.S.C. §  
9 102(b), because Takriti does not disclose a supply chain operator that  
10 operates a generation facility to sustain industrial production of a production  
11 supply chain. In this regard, we do not agree with the Examiner that element  
12 12 depicted in Figure 2 is a production supply chain. Rather, element 12 is a  
13 generating plant which is connected to transmission lines for delivery to  
14 electrical power customers and to other utilities (col. 6, ll. 11 to 15). As  
15 such, there is no step disclosed in Takriti of determining whether to reduce  
16 production output or increase electricity production so as to create excess  
17 energy capacity.

18 In view of the foregoing, we will not sustain the Examiner's rejection  
19 of independent claim 21 and claims 22 to 26 dependent thereon. We will  
20 also not sustain this rejection as it is directed to independent claims 28 and  
21 35 and claims 29 to 34 and 36 to 42 dependent thereon because claims 28  
22 and 35 also recite a supply chain operator and the determination step  
23 regarding the industrial production output.

CONCLUSION OF LAW

On the record before us, Appellant has shown that the Examiner erred in rejecting claims under 35 U.S.C. § 102(b).

DECISION

The decision of the Examiner is REVERSED.

REVERSED

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